1905-009 Chancery Causes: Pennington Bros] vs. John B. Pennington &c
Lee Co

Banner, Fletcher

- Deed

CA - Debt
T - Property

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT FOR LEE COUNTY:

Humbly complaininag your orators, E. W. and R. L. PENNINGTON, partners doing business as attorneys under the firm name of PENNINGTON BROS., would respectfully represent and show unto Your Honor: That on the 18th day of February, 1904, they obtained a judgment against J. B. Pennington before H. C. Joslyn, a Justice of the Peace of Lee County, for the sum of $30.00 with interest thereon from the 4th day of March, 1903, and $1.00 costs: that upon the said judgment, as aforesaid, there was issued an execution directed to J. W. Hines, a constable of the said county, and the said J. W. Hines made return upon the said execution afterwards that the same had not been executed, no property found; that the same judgment is still due and unpaid, no part of the same having been paid by the said J. B. Pennington to your orators, or by anyone else for him. The original judgment is here filed as part of this bill and prayed to be taken as part thereof. Your orators would further represent and show unto Your Honor: That the said judgment obtained, as aforesaid, has been docketed on the Judgment Lien Docket in the Office of the Clerk of the County of Lee in Book No. 4--page 73; that the said Jno. B. Pennington is the owner of certain real estate situated in the County of Lee on the south side of Walden's Ridge, adjoining the lands of Tankersly, Thompson and others; and that on the 2nd day of February, 1903, the said J. B. Pennington and wife executed a paper here filed as part of this bill, as "Exhibit B", to Wm. E. Fletcher and V. S. Banner, for the purpose of securing to the said Fletcher and Banner, as your orators are informed, a sum of money which the said Banner and Fletcher had paid out and had a agreed to pay out for the said Pennington as costs in a certain suit which had been brought in

the Circuit Court for Lee County by B. F. Thompson against V. S. Banner in reference to a lot of timber which the said Pennington had sold to the said Banner. It will be seen from the said paper that no amount is fixed in the said deed of mortgage, or whatever it can be called, but your orators suppose that the said Banner and Fletcher would be entitled to a lien upon the land thereby conveyed for such amount of money as was furnished to the said Pennington under said agreement.

THE PREMISES considered, your orators are advised that they have a lien upon the said lands of said John B. Pennington for the amount of their judgment and costs and that they have a right to have the same enforced in a court of equity and, to accomplish which, they have a right to have all the liens against the said lands ascertained and their priorities fixed.

THE PRAYER, therefore, of your orators is: That the said John B. Pennington, W. E. Fletcher and V. S. Banner be made parties to this bill of complaint and be required to answer the same, but not under oath, that being expressly waived; that a commissioner be appointed to ascertain the liens and fix their priorities; and that upon a hearing a sale be directed of so much of the said land as may be necessary to pay the said liens so ascertained by the said com'r. and the costs of this suit; and that all the lien creditors be required to contribute to the costs of this suit and the payment of attorney's fees for prosecuting the same; and may all further and general relief be granted your orators that the nature of their cause and good conscience require and they will ever pray etc.

Pennington & Bras p. q.

Pennington Bros

v. Bill

J. B. Pennington et al

Pennington Bros.
ATTORNEYS AT LAW,
JONESVILLE AND PENNINGTON GAP, VA.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT FOR LEE COUNTY:

The Answer of W. E. Fletcher and V. S. Banner to a Bill in Chancery filed in Your Honor's Court by Pennington Bros. against them and others.

For answer to the said bill, or so much thereof as your Respondents are advised that it is necessary that they should answer, answering they say: That it is true, as stated in the said plaintiff's bill, that said John B. Pennington is indebted to your Respondents on account of moneys furnished to him by your Respondents and for which your Respondents took said mortgage to secure the payment of said money. The amount due to your Respondents, as secured by the said mortgage, is $323.56, dated January 9, 1904. Your Respondents join with the said plaintiffs in the prayer for the enforcement of the liens against the lands of the said John B. Pennington, and pray that your Respondent's said lien for said sum of $323.56, with interest thereon from the 9th day of January, 1904, be enforced against the said land and the priorities of the said liens fixed as the Court may deem right.

Now, having answered as fully as your Respondents deem it necessary that they should answer, they will ever pray, etc.

Pennington Bros

Pennington & Bros

v. } Answer of
F. Fletcher & Brown

J. B. Pennington et al

Pennington Bros., Complainants.

vs In Chancery,

J.B.Pennington et al, Defendants.

This cause come on this day to be heard upon the papers formerly read therein and it being stated that the matters and things involved in this suit have been settled,upon the motion of plaintiffs this cause is stricken from the docket.

Remington Bros

v. Decree for

J. B. Remington et al

Entered in O.B.

No 8 — p — 17 —

Entered this decree

May 15, 1905

J. A. C. W. Shum

Pennington Bros., Complainants,

Vs. in chancery,

John B.Pennington et al, Defendants.

This cause came on this day to be heard upon the papers formerly read therein and the report of special commissioner A.M.Goins filed therein on the 1st day of Dec. 1904,and was argued by counsel.

On consideration of all which,and the said report being unexcepted to,the same is hereby approved and confirmed;and the said plaintiffs will recocer of the said defendant J.B.Pennington the sum of $34.44 with interest on $30.00 part thereof from the 12th day of December, 1904,and the costs of this suit,which is hereby adjudged to be a second lien upon the real estate of the said defendant J.B.Pennington, reported in this cause; and W.E.Fletcher and V.S.Banner will recover of the said J.B.Pennington the sum of $341.52,with interest thereon on $323.56,part thereof from the 12th day of December,1904,till paid, which is adjudged to be a first lien upon said land.

And it is furthur adjudged ordered and decreed that unless said sums of money be paid within six months from this date,then that R.L.Pennington who is hereby appointed a special commissioner for the purpose, after having advertised the time terms and place of sale for 30 days by written or printed notices poseted at at least three public places in the county of Lee, and after having executed bond before the clerk of this court in the penalty of $800, conditioned as the law requires,will proceed to make sale of enough of the real estate of the said J.B.Pennington as shall be necessary to pay said debts and the costs of this cuit and the commissions and expenses of sale,at public outcry at the front door of the court house of Lee County; which sale shall be made on a credit of six and twelve months time, in equal enstallments,except a sum sufficient to pay the costs of this suit and commissions of sale,which he will require to be paid in hand,and for the defered payments he will take notes payable to himself,bearing interest from date of sale,with good personal securety. And he will report his action to this court and this cause is continued.

Pennington Bros., Complainants.

Vs. In Chancery.

John B.Pennington et al, Defendants.

This cause came on this day to be heard upon the papers formerly read therein and the report of special commissioner A.M.Goins filed therein on the 1st day of Dec. 1904,and was argued by counsel.

On consideration of all which,and the said report being unexcepted to, the same is hereby approved and confirmed; and the said plaintiffs will recover of the said defendant J.B.Pennington the sum of $34.44 with interest on $30.00 part thereof from the 12th day of December, 1904,and the costs of this suit,which is hereby adjudged to be a second lien upon the real estate of the said defendant J.B.Pennington, reported in this case; and W.E.Fletcher and V.S.Banner will recover of the said J.B.Pennington the sum of $34.00,with interest thereon on $33.86,part thereof from the 12th day of December,1904,till paid.

And it is further adjudged ordered and decreed that unless said sums of money be paid within six months from this date,then that R.L.Pennington who is hereby appointed a special commissioner for the purpose, after having advertised the time terms and place of sale for 30 days by written or printed notices posted at at least three public places in the county of Lee, and after having executed bond before the clerk of this court in the penalty of $800 conditioned as the law requires,will proceed to make sale of enough of the real estate of the said J.B.Pennington as shall be necessary to pay said debts and the costs of this suit and the commissions and expenses of sale,at public outcry at the front door of the court house of Lee County.

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PENNINGTON BROS., COMPLAINANTS

v.

J. B. PENNINGTON ET AL, DEFENDANTS.

This cause came on this day to be heard on the bill of the complainants and the exhibits filed therewith, and was argued by counsel.

It appearing to the court, that the defendants thereto have been duly served with process for more than fifteen days previous to the first day of this term of the Court, and they failing to appear, plead or answer said bill of the said complainants, it is taken for confessed. It is, therefore, adjudged, ordered and decreed, that A. M. Goins, who is hereby appointed a special commissioner for the purpose, do, after giving the parties, or their attorneys, notice of the time and place of his sitting, proceed to ascertain and report to the Court at the next term all the liens against the land in the bill mentioned, and whether the same will rent for a sum sufficient to pay the judgment liens, exclusive of other liens, in five years, and the priorities of the several liens, and any other matters deemed pertinent by himself, or expressly required by any person in interest.

And this cause is continued.

PENNINGTON BROS., COMPLAINANTS

v.

J. B. PENNINGTON ET AL., DEFENDANTS.

This cause came on this day to be heard on the bill of the complainants and the exhibits filed therewith, and was argued by counsel.

Appearing to the Court, that the defendants thereto have been duly served with process for more than fifteen days previous to the first day of this term of the Court, and they failing to appear, plead or answer said bill of the said complainants, it is taken for confessed. It is, therefore, adjudged, ordered and decreed, that A. M. Goins, who is hereby appointed a special commissioner for the purpose, do, after giving the parties, or their attorneys, notice of the time and place of his sitting, proceed to ascertain and report to the Court at the next term all the liens against the land in the bill mentioned, and whether the same will rent for a sum sufficient to pay the judgment liens, exclusive of other liens, in five years, and the priorities of the several liens, and any other matters deemed pertinent by himself, or expressly required by any person in interest.

And this cause is continued.

Complainants Atty

Defendants Atty

Entered Orb. No. 7 page 107

Sept Term 1907

COMMISSIONER'S REPORT.

Pennington Bros., - - - - - - - - - - - - - - - - - - Plffs.)
vs. (In Chy.
J.B.Pennington et al.,- - - - - - - - - - - - - - - - Defts.)

To the Hon. H.A.W.Skeen, Judge of the Circuit Court for Lee County, Virginia:

Your undersigned commissioner, in pursuance of a decree entered in the above styled cause on September 20th, 1904, an office copy of which is herewith filed, having given notice of the time and place of his sitting, as required by said decree, and as will appear from the executed notice herewith, proceeded on the 26th day of November, 1904, at his office in the town of Jonesville, Va., the time and place designated in said notice, to executed said decree; and the proceedings having been thenceforward adjourned and continued from day to day, and being at length completed as fully as the commissioner is enabled from the evidence before him, the result is herewith respectfully submitted.

Your commissioner is directed by the aforesaid decree:

1st, To ascertain and report to the court at its next term all the liens against the lands in the plaintiffs' bill mentioned, and whether the same will rent for a sum sufficient to pay the judgment liens, exclusive of other liens, in five years;

2nd, To ascertain the priorities of the several liens; and

3rd, To ascertain and report any other matter deemed pertinent by himself, or expressly required by any person in interest.

In obedience to the enquiry first above directed, your commissioner files herewith, as part hereof, statement "A", which is a full and complete statement of the liens against the real estate of the said J.B.Pennington, as set out by the plaintiffs in their bill. The commissioner finds only the two liens--the mortgage to secure the debt of Fletcher & Banner, and the judgment in favor of Pennington Bros., as reported in statement "A", against the real estate of the said J.B.Pennington.

Under this enquiry your commissioner is directed to ascertain whether the real estate of the said J.B.Pennington will rent for a sum sufficient to pay the judgment liens, exclusive of other liens, in five years. In answer to this part of the enquiry your commissioner ascertains that said real estate would rent for a sufficient amount

to pay the judgment lien of Pennington Bros., which amounts to only $34.44, as of Dec.12th, 1904; but the commissioner will further report that he ascertains that said real estate would not rent for a sufficient sum in five years to pay the whole of the indebtedness reported in statement "A", and the cost of this suit. The real estate of the said J.B.Pennington is principally mountainous and wild lands, with very little rental value for farming purposes.

In answer to enquiry second, above directed, your commissioner reports that said liens in statement "A" are in the order of priority as indicated by the numerical value of the figures in the left hand margin of said statement.

And now having reported upon all matters referred by the court, or deemed pertinent by himself, or required by any party in interest, as fully as he is enable from the evidence before him, your commissioner here respectfully submits this his report, this Dec.1st, 1904.

A. M. Goins,

Special Commissioner.

Fee for this Report, $6 00/100

Fee charged to Pennington Bros.

I, A.M. GOINS, Special Commissioner in the above styled cause, do hereby make oath that I was diligently employed not less than 8 *hours, in performing the services for which the fee above stated is charged, and do so certify, this* 1st *day of* Dec., *190*4.

A. M. Goins,

Special Commissioner.

(See Statement "A" Following)

LIST OF LIENS AGAINST THE REAL ESTATE OF J.B.PENNINGTON.

To debt in favor of W.E.Fletcher and V.S.Banner-- secured by mortgage dated Feb.2nd, 1903, ...	$ 323.56	
" Int. on same from 1/9/'04 to 12/12/'04,.	17.96	$341.52
To judgment in favor of Pennington Bros.--judgment rendered by J.P., Feb. 18th, 1904, for	$ 30.00	
" Int. on same from 3/4/'03 to 12/12/'04,.	3.19	
" Cost on judgment,.	1.25	$ 34.44
TO TOTAL LIEN INDEBTEDNESS, as of 12/12/'04,. . . .		$375.96

STATEMENT "A".

Pennington Bros.

vs. } Comr's Report.

J. B. Pennington et al.

Filed Dec. 1st, 1904.

W. C. T. Ewing Clerk.

Comr's Fee, $6.00

VIRGINIA, LEE COUNTY, TO-WIT:

To J. W. Hines, Constable of said County:

You are hereby commanded to summon J. B. Pennington if to be found in your county, to appear at Jonesville in said county, on the 18th day of Feb, 1904, before me or some justice of the peace of said county as may then be there to try this warrant, to answer the claim of E. W. Pennington & R. L. Pennington doing business as Pennington Bros, in debt, to-wit, for the sum of Thirty dollars and 00 cents, due by Note. And then and there make return of this warrant. Given under my hand, this 28 day of Jan, 1904.

H. C. Joslyn, J. P.

Upon the hearing of the above warrant, judgment is that the plaintiff, Pennington Bros recover of the defendant, J. B. Pennington, the sum of Thirty dollars and — cents, with interest thereon from the 4 day of March 1903, till paid, and $1.00 for his costs. This 18 day of Feby, 1904.

H. C. Joslyn, J. P.

VIRGINIA, Lee County, to-wit:

To J. W. Hines, Constable of said County:

I command you, in the name of the Commonwealth of Virginia, that of the goods and chattles of J. B. Pennington, in your County, you cause to be made the sum of $30.00, with interest thereon from the 4 day of March, 1903, till paid, which Pennington Bros has recovered before me in a Warrant in Debt, and also the sum of $1.00, which were adjudged to said Pennington Bros for costs in prosecuting said warrant. Given under my hand the 18 day of Feby, 1904.

H. C. Joslyn, J. P.

Homestead waived

Pennington Bros
vs. } Warrant
J. B. Pennington

Executed by delivering a true copy of the within warrant, to J. B. Pennington This Feby 11th 1934.

J. W. Hines C.L.C.

Returned Not executed, no property found.

J. W. Hines
C.L.C

J. L. D. No. 4. page 73.

"A"

THIS DEED made this 2nd day of February 1903, by and between J. B. Pennington and Martha M. Pennington his wife, parties of the first part and W. F. Fletcher and V. S. Bammer parties of the second part, all of the County of Lee and State of Virginia, Witnesseth: That for and in consideration of the sum of Five hundred dollars, the parties of the first part bargain, sell and convey and do by this deed, have bargained, sold and conveyed unto the parties of the second part, all that boundary piece or parcel of land known as the Cox and Stanley land bounded and described as follows; lying being and situate on the south side of Wallens ridge and adjoining the lands of Tankersly, Thompson and others or so much thereof as to satisfy the following conditions, which are as follows to-wit: Said J. B. Pennington is to receive of said W. F. Fletcher and V. S. Banner family necessaries and money, and upon a final settlement between the parties of the first and second part on or before the 1st day of January 1904, the party of the first part binds himself for all indebtedness to the parties of the second part. And the parties of the first part covenant that they will warrant generally the title to the above described land. In witness whereof we hereunto set our hands and seals the day and year first above written.

J. B. Pennington (Seal)

Martha M. Pennington (Seal)

Virginia, Lee County to-wit;

I, Jas. M. Durham a Justice of the Peace in and for the said County and State aforesaid do hereby certify that J. B. Pennington and Martha M. Pennington whose names are signed to the writing above bearing date on the 2nd day of February 1903, have each acknowledged the same before me in my County and State aforesaid. Given under my hand this 2nd day of February 1903.

Jas. M. Durham, J. P.

Virginia, Lee County to-wit:

In the Office of the Clerk of the County Court for said County, the 6th day of February 1903. This deed was presented, and together with the certificate of acknowledgment thereto annexed, admitted to record.

Teste: B. M. Morgan Clerk.

John B Pennington

To

W E Fletcher et al

"B."

Everett Waddey Co.,
Stationers and Printers,
Richmond, Va. Form No. 400.

Commissioner's Office,

To

Pennington Bros.

and

John B. Pennington, W. E. Fletcher and V. B. Banner

You are hereby notified that on the 26th day of November 1904, at my office, in Jonesville, Va., (at which time and place you are required to attend), I shall take, state and settle the following accounts which are to be taken, stated and settled and reported to Court in pursuance of the decree of the Circuit Court of Lee County, Va., rendered the 20th day of September, 1904, in the suit in chancery pending in said Court to which you are parties plaintiff and defendant, to-wit:

Pennington Bros., Plffs.,
vs. } In Chy.
J. B. Pennington et al., Defts.

Given under my hand, as Commissioner in Chancery of said Court, the 15th day of November, 1904

A. M. Goins,
Commissioner in Chancery.

Form No. 100.

Pennington Bros.

vs. } COMMISSIONER'S NOTICE.

J. B. Pennington et al.

Executed on Nov. 23. 1914 by delivering a copy of the within notice to J. B. Pennington

D. H.
for P. M. Bell
S. L. C.

Everett Waddey Co.,
Stationers and Printers,
Richmond, Va. Form No. 400.

Commissioner's Office,

To Pennington Bros.

and John B. Pennington, W. E. Fletcher and V. S. Banner

You are hereby notified that on the 26th day of November 1904, at my office, in Jonesville, Va., (at which time and place you are required to attend), I shall take, state and settle the following accounts which are to be taken, stated and settled and reported to Court in pursuance of the decree of the Circuit Court of Lee County, Va., rendered the 20th day of September, 1904, in the suit in chancery pending in said Court to which you are parties plaintiff and defendant, to-wit:

Pennington Bros., Plffs.
vs. } In Eq.
J. B. Pennington et al., Defts.

Given under my hand, as Commissioner in Chancery of said Court, the 15th day of November, 1904.

A. M. Goins,
Commissioner in Chancery.

Form No. 400.

Pennington Bros.

vs. } COMMISSIONER'S NOTICE.

J. B. Pennington et al.

Legal service of the within notice is hereby accepted.

Pennington Bros.
v
F. Stocker & Bonner.

Everett Waddey Co., Stationers and Printers, Richmond, Va. } Form No. 300½.

The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon John B. Pennington, V. S. Banner and W. E. Fletcher

to appear at the Clerk's office of the Circuit Court of the County of Lee at the rules to be held for the said Court, on the 1st Monday in September 1904, to answer to a bill in chancery, exhibited against them in our said Court by W. E. Pennington & Robt. L. Pennington partners under the firm name of Pennington Bros.

And have then there this writ. Witness ~~A. B. MUNSEY~~ N. E. T. Ewing, Clerk of our said Court, at the court-house, the 18th day of August 1904, and in the 129th year of the Commonwealth.

N. E. T. Ewing Clerk

Aug 22, 1904

Form No. 300½

Pennington Bros.

vs. } SUBPŒNA IN CHANCERY.

John B. Pennington et al

Pennington Bros. p. q.

To first Sept Rules

Lee Circuit Court.

Executed on the 22nd day of August 1904 by delivering a copy of the within summons to John B. Pennington and Lucetta Pennington; and to W. H. Fletcher, W. E. Fletcher, Frank Fletcher, Lucy Fletcher, Leander Fletcher, Edwin Fletcher, Lucy Fletcher, Leander Fletcher, Edwin Fletcher, Frank

Remington Bros

vs. Sol. Lehmann

W. D. Remington et al

1904, 1st " Sept Rules.
Bill filed & Sp. a.
Executed & D.R.
" 2nd " Sept Rules—
D.R. confirmed &
Cause set for
hearing.

Mr. Geiss Com -		6.00
Atty		15.00
Sheriff	paid Aug 17-08	2.00
Tol		1.50
Clerk -	Total	629
~~Estimates~~		~~5.00~~
		3.4.50
~~Indebtedness 12/12/1901~~		375.96
		~~11.25~~
		~~426.71~~
		30.79